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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 Rochelle Maureene McMahan,)

No. CV-17-01861-PHX-SPL

9 Plaintiff,)

ORDER

10 vs.)

11 Commissioner of Social Security)
12 Administration,)

13 Defendant.)
14

15 Pending before the Court is Plaintiff's Motion for an Award of Attorneys' Fees
16 Under 42 U.S.C. § 406(b) (Doc. 22).

17 On June 29, 2018, this Court reversed the final decision of the Commissioner of the
18 Social Security Administration and remanded for further proceedings (Doc. 17).
19 Approximately four months later, the Court awarded \$5,352.68 in attorneys' fees and
20 \$20.01 in costs under the Equal Access to Justice Act (the "EAJA") (Doc. 21). On remand,
21 Plaintiff was awarded \$89,740 in back benefits due, and a Notice of Award was issued on
22 December 17, 2018 (Doc. 22-1). On April 15, 2019, Plaintiff was awarded an addition
23 \$24,853 in auxiliary benefits (Doc. 22-2). Plaintiff now seeks an award of \$14,168.25 in
24 attorneys' fees under 42 U.S.C. § 406(b) (Doc. 22).

25 The Social Security Act provides that the Court may award reasonable attorneys'
26 fees for representation before the Court, not to exceed twenty-five percent of past-due
27 benefits. 42 U.S.C. § 406(b)(1)(A). The Supreme Court in *Gisbrecht v. Barnhart* provides
28 district courts with guidance on how to evaluate such Section 406(b) contingent-fee

1 requests for reasonableness.

2 Most plausibly read, . . . § 406(b) does not displace contingent-
3 fee agreements as the primary means by which fees are set for
4 successfully representing Social Security benefits claimants in
5 court. Rather, § 406(b) calls for court review of such
6 arrangements as an independent check, to assure that they yield
7 reasonable results in particular cases.

8 *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). In determining whether such a fee award
9 is reasonable under 42 U.S.C. § 406(b), the Court may look to factors including the
10 character of the representation, the results achieved, delay, and proportionality. *Gisbrecht*,
11 535 U.S. at 808; *Crawford v. Astrue*, 586 F.3d 1142, 1148, 1151 (9th Cir. 2009).

12 Defendant does not object to the motion (Doc. 23). Upon review, the Court finds
13 the request for \$14,168.25 is less than twenty-five percent of Plaintiff's past-due benefits
14 and does not exceed the statutory cap. In addition, the instant record provides no indication
15 of substandard performance, dilatory litigation tactics, or disproportionality.¹ Accordingly,
16 this Court concludes that a consideration of the *Gisbrecht* factors warrants a finding that
17 the fee requested is reasonable.

18 **IT IS THEREFORE ORDERED** that the Motion for an Award of Attorneys' Fees
19 Under 42 U.S.C. § 406(b) (Doc. 22) is **granted**.

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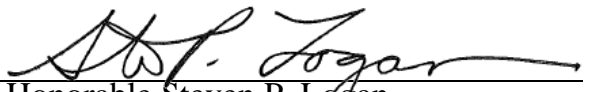
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27 ¹ The fee request results in an effective hourly rate of \$520.89. "In cases of this
28 type, the Ninth Circuit sitting en banc has approved effective hourly rates of \$519, \$875,
and \$902 without finding that they are unreasonable." *Young v. Colvin*, 2014 WL 590335
at *2 (D. Ariz. 2014) (citing *Crawford*, 586 F.3d at 1153). Taking into account the risk
inherent in contingent-fee arrangements, the Court concludes the hourly rate is reasonable.

1 **IT IS FURTHER ORDERED** that Counsel is awarded **\$14,168.25** in accordance
2 with 42 U.S.C. § 406(b). Upon receipt of this sum, Counsel shall refund the previously
3 awarded EAJA fees of **\$5,352.68** to Plaintiff.

4 Dated this 22nd day of October, 2019.

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7 Honorable Steven P. Logan
8 United States District Judge
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